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PATENT
S.N. 09/720,446
1175/63852

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3634

RESPONSE UNDER 37 CFR §1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3634

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Poul Henrik Ahm
Serial No. : 09/720,446
Filed : December 22, 2000
For : Packed Tapes as well as Methods and an Assembly for Packing Said Tapes
Group : 3721
Examiner : Gloria R. Weeks

I hereby certify that this paper is being deposited this date with the U.S. Postal Service in first class mail addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Donald S. Dowden
Reg. No. 20,701

Date
August 12, 2004

1185 Avenue of the Americas
New York, New York 10036
August 12, 2004

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION SUBMITTED AFTER FINAL REJECTION AND FILING OF NOTICE OF APPEAL BUT BEFORE FILING APPEAL BRIEF

SIR:

We are submitting herewith a Declaration of Poul Karlsen who is a horticulturist holding a Masters Degree in horticulture from the Royal Veterinary and Agricultural University of Copenhagen, Denmark, and has many years of practical and academic experience. We confirm a telephone conversation with the Examiner on August 9, 2004, in which we indicated that the

Declaration draws a conclusion that may make prosecution of the appeal unnecessary.

A copy of this submission is being submitted simultaneously to the Examiner at facsimile number 703-746-7149.

The Examiner's consideration of the Declaration is greatly appreciated.

Respectfully submitted,
COOPER & DUNHAM LLP

A handwritten signature in cursive script, appearing to read "Donald S. Dowden".

Donald S. Dowden
Reg. No. 20,701



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DECLARATION

I, the undersigned, *Poul Karlsen, Askeengen 33, DK-2740 Skovlunde, Denmark*, declare as follows:

1. I am a citizen of the Kingdom of Denmark.
2. I was born 17 April 1940 in Silkeborg, Denmark.
3. I am a horticulturist, holding a masters degree in horticulture from the Royal Veterinary and Agricultural University of Copenhagen, Denmark – (Den Kongelige Veterinære og Landbohøjskole).
4. I have been working at the above university with the department of agriculture in the period April 1, 1967 – June 1, 2002, the last 30 years as an associate professor; I am now retired. My expertise is among other things in plant nutrition, growth substrate, horticultural technology and soil science.

5. I am aware that this affidavit is to be put before the Examiner of US patent application serial No. 09/720,446 for "Packed tapes as well as methods and an assembly for packing tapes" (applicant: Poul Henrik Ahm) at the United States Patent and Trademark Office.

6. I have studied the description, claims and drawings and a copy of the prior art of record in the above application, especially the following references:

US patent 4,427,404

US patent 3,673,757

US patent 6,035,608

US patent 4,469,243

US patent 5,516,256

US patent 6,071,223

US patent 5,101,594

and most specifically

US patent 6,176,068 (O'Connor).

7. I have studied the revised claim 13 as forwarded to the USPTO by a paper mailed May 11, 2004.

8. I have noted a number of merits (advantages) of the box (or package) according to the above claim 13 compared to a box (or package) made in accordance with US 6,176,068, especially that the tape when stacked in the box (or package) in accordance with claim 13 can be withdrawn from the box (or package) (when placed on a transplanter) more smoothly, evenly and reliably and without jamming or wedging (cf the application, page 2, lines 7-13) or being damaged. This is important because the speed at which the tape is drawn out of the box (or package) by a transplanter is typically as great as 1-2 m/second, and a plant tape must be handled with great care because it has only rather limited strength, and the plants of the tape should not be subjected to too high frictional forces. Giving the layers of the stack different lengths (cf the feature: "thereby producing layers that are successively relatively long, intermediate and short, and facilitating pulling the tape out of the package..." in claim

13) reduces the number of contact points between the tape bindings and the side walls of the box (or package). As the box (or package) is placed on the transplanter, the latter will cause strong vibrations of the box (or package) at said contact points. At the contact points this can cause damage to the plants or germinating units in the tape as they rub against the side walls of the box (or package). Thus the number of contact points should be kept rather low.

I DO HEREBY DECLARE to the best of my knowledge

that I find that the item of the above claim 13 is new and non-obvious in the light of my personal experience and knowledge of the industry and the prior art identified above, including an item with a tape laid according to US 6,176,068 (O'Connor).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Skovlunde, Denmark the 11 day of July, 2004

Paul Hansen